

**[Unapproved and Subject to Change]**  
**CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION**  
**MINUTES OF MEETING, Public Session**

May 11, 2006

Call to order: Chairman Liane Randolph called the monthly meeting of the Fair Political Practices Commission (Commission) to order at 10:01 a.m., at 428 J Street, Eighth Floor, Sacramento, California. In addition to Chairman Randolph, Commissioners Sheridan Downey, Gene Huguenin, and Ray Remy were present. Commissioner Phil Blair was unable to attend.

**Item #1. Public Comment.**

There was none.

**Consent Items #2-9.**

Commissioner Remy moved to approve the following items in unison:

**Item #2. Approval of the April 13, 2006, Commission meeting minutes.**

**Item #3. Approval of the April 24, 2006, Commission meeting minutes.**

**Item #4. In the Matter of Agnes Sietsema, FPPC No. 04/006 (2 counts).**

**Item #5. In the Matter of Bruce Peotter and Friends of Bruce Peotter, FPPC No. 02/247 (1 count).**

**Item #6. In the Matter of Diana R. Hall and Committee to Re-Elect Judge Diana R. Hall, FPPC No. 04/220 (1 count).**

**Item #7. In the Matter of Thomas Clark, FPPC No. 05-686 (1 count).**

**Item #8. Failure to Timely File Late Contribution Reports – Proactive Program.**

- a. In the Matter of Po Long Lew/Po Long Lew, D.O., A Medical Professional Corp., FPPC No. 05-0843. (1 count).**
- b. In the Matter of Vincent M. Fortanasce MD, FPPC No. 06-0012 (1 count).**
- c. In the Matter of On Broadway Event Center, FPPC No. 06-0065 (1 count).**
- d. In the Matter of S.K.Y. Companies and Affiliates, FPPC No. 06-0127 (2 counts).**

- e. **In the Matter of Apple Computer, Inc., FPPC No. 06-0130** (1 count).

**Item #9. Failure to Timely File Major Donor Campaign Statements.**

- a. **In the Matter of Physicians for Compassionate Care of California, Inc., FPPC No. 06-0011** (2 counts).
- b. **In the Matter of On Broadway Event Center, FPPC No. 06-0064** (2 counts).

Commissioner Downey seconded the motion. Commissioners Downey, Huguenin, Remy, and Chairman Randolph supported the motion, which carried a 4-0 vote.

**ACTION ITEMS**

**Item #10. Adoption of Proposed Regulation 18438.5 and Proposed Amendments to Regulation 18438.8.**

Bill Lenkeit, Senior Commission Counsel, presented proposed regulation 18438.5 which would enact a conflict-of-interest standard for aggregating contributions to officers under section 84308 under the Political Reform Act (the “Act”) and proposed amendments to regulation 18438.8 regarding disclosure of those contributions. This item was first presented for prenotice at the January 2006 Commission meeting along with a companion item involving aggregation of contributions and independent expenditures for campaign reporting purposes. At the January meeting the Commission directed staff to separate the two items for purposes of adoption. The regulations concerning aggregation for campaign reporting purposes were adopted at the March 2006 Commission meeting. This item now concerns adopting a separate conflict-of-interest aggregation standard, instead of using the direction and control standard, for purposes of section 84308. Current proposed regulation 18438.5 has been simplified from the version presented at the prenotice meeting. It no longer contains language that would include related entities under the definition of party, but simply aggregates any contributions from a party’s related entities by applying the conflict-of-interest standard set forth in the Act. In this manner, a party to a proceeding would have its contributions aggregated with any parent, subsidiary, or otherwise related business entity if that entity also made a contribution to an officer in the proceeding. At the suggestion of the Enforcement Division, additional amendments have been added under regulation 18438.8 that would require any party to a proceeding to disclose the names of any of its related entities whose contributions would be required to be aggregated if the other entity made any contributions to an officer in the proceeding. By requiring this disclosure, any officer to the proceeding would be aware of the relationship of one entity to a party in the proceeding and would be aware that such a relationship requires aggregation of any contributions for purposes of the limitations, disqualifications, and notice requirements provided under the threshold stated in section 84308. One comment letter was received from California Common Cause that supports the changes that have been proposed.

Chairman Randolph asked regarding regulation 18438.8, line 15, if the language would be more clear if a reference to candidates for offices at the agency were included.

Mr. Lenkeit replied that including a reference would probably be more helpful, however the definition provided in the statute does say that a candidate is included within the definition of officer. Adding the language would make it clearer.

Commissioner Downey pointed out that the added language would then include even candidates who lost elections.

Chairman Randolph confirmed that anyone who is actively contributing in that jurisdiction should be making that disclosure.

Commissioner Downey asked if there should be disclosure of contributions to unsuccessful candidates.

Mr. Lenkeit replied that once a candidate is unsuccessful, they are no longer a candidate for these purposes.

Commissioner Downey asked if the words “or any candidate” were added, wouldn’t that include those candidates who are unsuccessful?

Mr. Lenkeit responded that this is the same language that is used in the statute in which an officer is defined as any elected or appointed officer of any agency, any alternate to an elected or appointed officer of any agency, and any candidate for elective office of any agency. It would be the same language, used as a reminder, in case it was not seen in the definition.

Chairman Randolph stated that this applies to a party to a proceeding that is pending, who will be disclosing on the record the names of any persons whose contributions are required to be aggregated. The Chairman wondered if that includes any contributions.

Mr. Lenkeit replied that it would be any contributions from a related entity other than that party, who has made a contribution to an officer in the proceeding. A contribution to someone somewhere else in the state would not count.

Chairman Randolph clarified that the statute already requires the disclosure under the existing language because “officer” includes any candidate.

Mr. Lenkeit said that is correct.

Commissioner Downey asked if a party to an agency proceeding makes a contribution to a losing candidate for one of the offices on the agency, would that party be required to disclose its contribution and its aggregated entity’s contributions to the losing candidate.

Mr. Lenkeit answered that the disclosure would not be required because at the point where the election is over the losing candidate is longer considered a candidate at all.

Commissioner Downey confirmed that if the language is left as is, and only the statutory definition of officer is added, contributions to losing candidates will not be disclosed. However, if the phrase “and any candidate” is added, then the disclosure of those contributions to losing candidates would be required.

Chairman Randolph said that the phrase “and any candidate” would not mean disclosure of contributions to losing candidates.

Mr. Lenkeit agreed that adding the phrase would not change the requirement.

Commissioner Remy wondered if it may be important to know who was involved in the campaigns, not just who won the elections.

Chairman Randolph added that there is a timeframe of the previous twelve months or the three months afterward. That prevents the disclosure of contributions that were made two years before the election.

Commissioner Downey said that his question pertained to contributions made even one month prior.

Mr. Lenkeit said that it does not appear that adding this language would change any existing requirements, it simply acts as a reminder that the definition of “officer” includes candidates.

Commissioner Downey asked how the language would read.

Mr. Lenkeit responded that with the added language the statute would read at line 15, “are required to be aggregated if the person has made a contribution to any officer of the agency, including any candidate for elective office in the agency.”

Chairman Randolph suggested saying “has made a contribution to any officer of the agency as defined in 84308(a)(4).”

Mr. Lenkeit agreed that the suggested language would work.

Chairman Randolph asked if there were any other questions.

There were none.

Chairman Randolph asked for any public comment.

There was none.

Chairman Randolph confirmed that there was an Interested Persons Meeting held regarding this item.

Mr. Lenkeit said that there was an Interested Persons Meeting and there were no comments received at that meeting.

Commissioner Remy moved to approve the proposed regulation and the proposed amendments.

Commissioner Downey seconded the motion, which passed with a 4-0 vote.

**Item #11. Adoption of Amendments to Regulation 18942 – the Gift Regulation Involving Wedding Gifts, Baby Showers and Receptions’ and an Update on Regulation 18944.**

Emelyn Rodriguez, Commission Counsel, presented for adoption proposed amendments to regulation 18942 and provided a brief update regarding regulation 18944. These items were presented for prenotice discussion at the February Commission meeting and at that time staff was directed to add clarifying changes to the proposed language in regulation 18942. Those changes were incorporated in the version that was noticed with the Office of Administrative Law. No public comments have been received and staff asks that the Commission adopt this regulation as amended. At the February meeting the Commission also considered proposed amendments to regulation 18944 that would add a specific provision stating that gifts given directly to an official, but intended for use by the official’s child are gifts to the child. At the time, there was public comment requesting that further amendments be made to the regulation, however, due to the added extensive work that was required, it was made into a separate project. The amendments are currently set for adoption in July and staff held an Interested Persons Meeting where additional public comments were received.

Ms. Rodriguez continued, with regard to regulation 18942, which is up for adoption today, this project was proposed last year by the Commission’s Technical Assistance Division after inquiries were received from the regulated community regarding the scope of the “invitation-only” events regulation 18946.2(b). These amendments were proposed to narrow the scope of the “invitation-only” regulation, which is broad enough to encompass attendance at occasions such as birthdays, weddings, and other similar events. The proposed amendments to regulation 18942 are consistent with the “gifts exchanged” exception under section 89503(e)(2). The amendments would clarify that food, drink, and nominal benefits received by an official attending an event of personal significance would fall under this exception, and therefore, would not be subject to gift limits and reporting rules. This exception would apply so long as an exchange of gifts occurs and the gifts exchanged are not substantially disproportionate in value. The proposed amendments are consistent with the general purpose of the reporting provisions of the Act, which require disclosure of transactions that, due to their economic or monetary effect, might improperly influence a public official. The changes are also consistent with the Commission’s longstanding view that certain exchanges are beyond the policy considerations of the Act. This refers to gift giving in which the motivating factor is personal relationships in personal relationships and not political influence of favors. The proposed amendments to regulation 18942(a)(8) would incorporate Commissioner Downey’s suggestions that were made at the February Commission meeting by specifying that the definition of gifts and the exception to the gift rules expressed in regulation 18942 are pursuant to, and for the purposes of, section 82028. The amendments would also state that the exception to reporting and gift limit rules

includes gifts exchanges between an individual who is required to file a statement of economic interests and another individual, other than a lobbyist, on holidays, birthdays, or similar occasions. This exception would be applied to the extent that such gifts exchanged are not substantially disproportionate in value. Lastly, the proposed amendments would state that notwithstanding the language in the “invitation-only” regulation, 18946.2(b), that gifts exchanged includes food, beverages, entertainment, and nominal benefits provided at the occasion by the honoree or other individual, other than a lobbyist, hosting that event. Staff recommends that the Commission adopt the proposed clarifying amendments to regulation 18942.

Commissioner Remy asked how one would gauge disproportionate value.

Mr. Rodriguez replied that disproportionate value is not specified. That would be a discretionary issue for the Enforcement Division if it were to come up. The regulation offers no definitive way to determine disproportionate value.

Commissioner Remy asked how a gift of \$1,000 would be handled under the regulation.

Ms. Rodriguez responded that if an exchange of gifts occurs and the gifts are not substantially disproportionate in value, that exchange would fall under the exception to the gift rules. There is no exact method or definition to determine what qualifies as substantially disproportionate.

Luisa Menchaca, General Counsel, added that to the extent that the regulation does specify that the gift exchange includes food, beverages, entertainment, and nominal benefits helps define that a type of gift outside of those categories would most likely not be proportionate in value. The gifts are limited to nominal things. There is not a definition, however, it does help guide enforcement in terms of case by case determination.

Commissioner Remy asked what happens when a lobbyist celebrating a twentieth anniversary invites a whole group of friends from Sacramento, many of whom are officials.

Ms. Rodriguez answered that lobbyists are covered under a different section of the Act and this regulation does not apply to lobbyists.

Commissioner Remy asked what the gift restrictions are for lobbyists.

Ms. Rodriguez replied that the gift limit for lobbyists is \$10.

Commissioner Remy said that, given that limit, it would be very difficult for a lobbyist to invite friends to an event.

Carla Wardlow, Chief of Technical Assistance, added that there is a home hospitality exception in the lobbying rules that allows a lobbyist to entertain officials in his or her home as long as certain conditions are met, including that the party is not used as a write off and that the lobbyist is not reimbursed by their client or employer for the event.

Commissioner Huguenin stated that a common occurrence when the Commission is amending existing regulations is that questions about the meaning of the non-amended portion come up and this is one of those cases. Subdivision 7 on the first page, which is the home hospitality exception, states that the individual or a member of the individual's family is required to be present as the host of any event. In an earlier subsection there is a very broad definition of "family." Is that the definition that is intended to apply to this exception or does the host have to be a family member who actually resides under the same roof as the individual?

Chairman Randolph said that the subdivision does not say that the host needs to be someone of the individual's immediate family, therefore, it defines "family" very broadly.

Commissioner Huguenin confirmed that any family member, local or otherwise, could host the event.

Chairman Randolph asked for any other questions.

There were none.

Chairman Randolph asked for any public comment.

There was none.

Commissioner Downey move to approve the amendment to regulation 18942 and commended staff on a well presented and succinct memorandum.

Commissioner Huguenin seconded the motion, which passed with a 4-0 vote.

## **Item #12. Discussion of Diversion Concept.**

John Appelbaum, Chief of Enforcement, addressed the Commission regarding the concept of a diversion program in order to handle the case load and relieve the back log of cases. The concept is similar to what is currently being done in other jurisdictions regarding traffic fines and violations, that is, an individual violator would have the offense expunged in exchange for completing some type of program designed to better educate the individual on the Act. This would serve both functions of trying to alleviate the back log in the Enforcement Division and educating the regulated community on the requirements of the Act. The authority for such a program is believed by Enforcement to exist under the Commission's current prosecutorial discretion, however, the Legal Division may need to evaluate whether a regulation may be necessary in order to implement such a program. Initially, a list of potential violations was proposed in a list in a subsequent memorandum dated May 9, 2006. The Enforcement Division examined several of the cases that had been closed and based on that research, the list of potential violations recommended for inclusion in the program was redrafted to include recipient committees who fail to report contributions or expenditures up to certain dollar amounts or percentage limitations, not more than 5% but not exceeding \$15,000. Other violations include recipient committees who fail to file late contribution reports up to certain dollar amounts or

percentage limitations, a recipient committee's failure to complete donor information where all contributions are subsequently returned to the contributors, sub vender violations up to certain dollar amounts or percentage limitations, independent expenditure reports, and major donor violations. The inclusion of major donor violations raises a difficult issue because participation in the program would not necessarily insulate the violator from a civil suit by a private litigant. The other part of the program is envisioned to include the option to issue warning letters as appropriate. Staff does not recommend including SEI non-filers because the requirement is so broad and relatively straightforward, and the individuals are notified repeatedly regarding this requirement and should be educated through that process. The Enforcement Division recommends that discretion be used in determining what cases are eligible for participation in the program. That determination would be made based on the seriousness of the violation in light of the surrounding circumstances, whether there was intentional conduct, whether there are prior violations by the violator, and whether there are existing prosecutions against the respondent. It is unclear how this program would affect the complaint resolution. Staff is working very hard to maintain currency in the caseload, however, the interest by the violators in participation in the program is yet to be determined. One issue for the Commission to consider is whether participation in the program will be an aggravating factor that would be considered in subsequent actions. Funding is difficult to ascertain until the level of participation can be determined. There would be some type of funding impact on the Technical Assistance Division, which would be responsible for offering the program. Staff does recommend that parties who participate agree to hold a statute of limitations so that this program is not used as a tool to delay cases.

Mr. Appelbaum explained that the process for this program would include the Chief Investigator and the Chief of Enforcement evaluating the suitability of each candidate for the program. Upon intake, the case would be reviewed and the approved criteria would be identified. Once initial eligibility was determined, the respondent would be sent paperwork notifying them of the opportunity to have the violation expunged. If the party chooses to participate in the program, they would sign and return the required forms. One issue for the Commission to consider is whether to charge a fee for participation in the program or not. If a fee is required, that information would be included in the paperwork sent to the respondent. When all documents and fees are returned, the Commission would have a signed agreement with the party and would monitor the progress to ensure that the program is completed and all obligations are fulfilled. There are about nine discussion points that the Commission needs to address so that staff can tailor the details of the program and bring them back for review and approval.

Chairman Randolph asked if it is necessary to have an absolute dollar limit if the Commission has a low enough percentage. Although the theory is that if a fair amount of money is raised then the program is more sophisticated, however, it seems that the absolute dollar amount is not necessary as long as the percentage remains low.

Mr. Appelbaum said that the use of the percentage is preferred because local races' dollars vary and one of the hardest aspects of designing this program was determining the fine for someone from a small jurisdiction versus that for someone from a large municipal jurisdiction. This problem exists at the state level as well. Staff felt that \$15,000 or some type of monetary cap is a good idea because it would enable the program to capture the violations that are still considered



serious but minor when compared to other cases. Anything that exceeds \$15,000 is viewed as more serious. The dollar cap can be changed though.

Commissioner Remy stated that the Commission is headed in a good direction with the idea of a Diversion Program. Important discussion points have been raised and in the list of violations to be addressed in the program. Additional questions to consider are whether or not the program is a one time option or if an offender can return for more than one additional program? If so, what is the time frame in which they can return for a second or third participation in the program? On the traffic side, there is a specific amount of time that must pass between violations to allow for another turn in the program, it cannot be used repeatedly for violations that occur too close together. The idea of charging a fee for participating in the program is a good one, although it should be a very nominal fee because it would not make sense to charge more for the program than it would cost to pay the fine incurred from the violation. The length of the program is also important. Would it be a day, a three day, or a month long program? Where would the programs be located? Costing is very important, even though it is very difficult to determine. The release in the Enforcement workload is directly interrelated with the increase of work for Technical Assistance. It seems like a difficult position to be telling the legislature that the Commission is under funded and under staffed, and that it is embarking on a new program in which cost and staff implications are undetermined.

Chairman Randolph replied to the question on the programs themselves that it may be practical to attempt to plug people into existing campaign seminars given primarily during campaign years. It may be problematic to do so in the off-years, but in an even numbered year there would be a lot of opportunity. Another issue is that there will be some situations where the existing programs do not address all the violations and decisions will have to be made as to which seminars will cover the education of individual violations. There will be issues such as the disqualification violations, where there are no existing materials that cover that particular violation. Staff may have to develop video training or online training for that violation. Those issues have to be identified ahead of time in order to anticipate the cost.

Commissioner Huguenin suggested that the Commission not spend too much time on the subjective criteria for eligibility to participate in the program so that the program does not take more time to administer than it would take to process the cases as they are done currently. Instead, have very objective criteria from the start so that as many people are given the opportunity to complete the program. The education goal is to promote interaction with Technical Assistance, therefore, the program should be as available as possible.

Chairman Randolph said that participation in the Diversion Program should not be an aggravating factor in future cases, however, it can only be done one time.

Mr. Appelbaum explained that the local level can be a struggle because the dollar amounts can have a much larger impact and the purpose of the discretionary criteria was to allow for the ability to make the decision based in the affect of the conduct involved.

Chairman Randolph noted that much of the criteria are objective and can be identified easily upon intake. In most situations, it will be assumed that if the criteria are met, the Diversion

Program is appropriate unless there are any red flags raised regarding the individual circumstances of the case.

Commissioner Huguenin added that the purpose of the entire Program is to achieve compliance and the question to consider is what is the most efficient and effective way to do that.

Commissioner Downey agreed with the concerns that have been raised and wondered what the motivation for the violators would be to participate in the program. The violations in question are relatively minor and would typically result in a stipulation for a relatively minor fine. That should also include education. Cases in which the violation that was made is simple enough to reveal a clear indication of the wrongdoing, such as forgetting to file a report or using an incorrect address on a slate mailer, the respondent does not need a seminar to learn how to prevent those violations in the future. Therefore, they may not opt to come to Sacramento and participate in a seminar unless the fine is significant enough to make the program worthwhile.

Chairman Randolph said that one benefit would be that the respondent would not be placed on a public agenda as having received a fine for a violation.

Commissioner Downey asked if the Program would be public.

Chairman Randolph responded that the Program status would not appear in the Commission agenda.

Commissioner Downey asked if the respondent's opponent in an election would have access to the Program information.

Ms. Menchaca said that a closed case becomes public information and if a person made a public records act request, that record of completion in the Program would be available.

Commissioner Downey asked if the candidate would be required to complete remedial training if it was a treasurer who committed the violation.

Mr. Appelbaum replied that it would seem logical to have the treasurer participate in the program because that is the person who needs the education.

Chairman Randolph said that if the current process is to bring an administrative action on both the candidate and the treasurer right now, then both people should be diverted through the Program. The candidate needs to know that a treasurer needs to be better supervised and the candidate can only know what needs to be supervised if they are educated as well.

Chairman Randolph asked for any public comment.

Chuck Bell, of Bell, McAndrews, and Hiltachk, stated that this Diversion Program is an excellent approach to take. The issue that may not be realized is that many of the people involved in these campaigns and the whole process have a huge reputational interest and hold the view that even a single enforcement action is very serious. Even violations that are inadvertent have an impact on

the candidates because their name is not associated with an error. Therefore, this program seems like a good idea for the Commission to approach and the authority to do so certainly exists under regulation 83116. There should be flexibility in the criteria as well as the thresholds to prevent the Commission having to go back and amend them. The Program as a whole is a great idea.

Chairman Randolph asked for any other public comment.

There was none.

Chairman Randolph suggested that the Commission consider the threshold issues that can be given direction on today, and then staff can come back with further detail. One of the first tasks that have been identified is nailing down costs. One way to approach it may be to determine the estimated costs and burden of the program based on whether the Commission gets a nominal amount of participation, and what the burden will be if a fair amount of participation is received. Then some assumptions can be made regarding that information.

Mr. Appelbaum asked if those estimates should be done in conjunction with the Technical Assistance Division, as there would be costs on both sides.

Chairman Randolph said yes, that both aspects should be considered.

Chairman Randolph addressed the discussion points from the memo, beginning with the first one of whether regulation should be developed to implement the program. There should be regulation, however, it should be broad and not necessarily include the list of divertible violations.

Chairman Randolph asked for any comments on having an absolute dollar amount.

Commissioner Huguenin said that an absolute dollar amount would not have enough flexibility.

Chairman Randolph said that percentages would be the other option.

Commissioner Downey added that having neither absolute dollar amounts nor percentages is another option.

Chairman Randolph stated that a percentage would be a good way for the consultant to determine eligibility for diversion.

Mr. Appelbaum added that the use of a percentage allows fairness and the ability to explain to those violators who are not given the option for the program, why that is the case.

Commissioner Downey agreed and said that a percentage is preferable to a dollar amount.

Mr. Appelbaum said that having both a percentage and a dollar amount seems to be the best way to go, however, more research in this issue can be done and brought back for review.

Chairman Randolph said that having a dollar amount may hinder candidates in larger campaigns from ever qualifying for the program.

Commissioner Remy asked if the amount would be based on the percentage of contributions than on a percentage of expenditures.

Mr. Appelbaum explained that it depends on what the respondents failed to report.

Chairman Randolph said regarding whether participation in the program would be an aggravating factor for future violations, that she is partial to the earlier proposal of the participation not being an aggravating factor, however, it can only be done one time.

Commissioner Remy asked if that meant only participating in the program once for any violation, or one time per violation. There should be a limit on the number of times for the same violation, however, there should be additional opportunity for different violations.

Mr. Appelbaum said that he favored the Chair's approach because it is hoped that the education provided would be adequate for preventing further violations.

Commissioner Downey added that there is always discretion for extreme cases of negligence.

Commissioner Huguenin said that if expungment really means what it says, then there would be no prior offense to consider. And the motivation for an offender to participate is that the violation would, in fact, go away.

Chairman Randolph said that there seems to be a consensus that it should not be an aggravating factor. It may not be practical to allow people to divert once for each violation, however, that may be the only fair way to set it up. As for whether the respondent has to admit to a violation, the idea that expungment means admitting the violation because otherwise there would not be anything to expunge is correct.

Mr. Appelbaum said that the advantage is that this would allow the respondent to not have a prior conduct to use as aggravating.

Commissioner Downey said that a concern should be that the parameters of this program do not undercut the motivation mentioned by Mr. Bell, which is the public knowledge of violations.

Chairman Randolph said that if the completion of the program is not going to be held against the offenders, then the tradeoff should be that the Commission is not going to have to go back and reopen the case to start a whole new investigation.

Commissioner Huguenin said that this is a very sticky point.

Chairman Randolph said that when this comes back for review, it should be considered as admitting a violation unless there is some other way to address the issue. That resolves the next question of a heightened fine.

Commissioner Remy confirmed that the issue in number 6 of the memo will be left open for further discussion at the next meeting.

Mr. Appelbaum said that when staff returns with possible remedies to this issue, the Commission can decide if the ideas are sufficient.

Chairman Randolph moved on to the next discussion point which addresses the recommended procedures for program implementation.

Mr. Appelbaum explained that there would be forms sent to the offenders found to be eligible for diversion.

Commissioner Huguenin stated that the instructional part of the program should be completed sooner than six months from the time of agreement by the offender. Possibly even within three months.

Chairman Randolph said that the six months was to allow for the seminars to be available in the area closer to the respondents so that coming to Sacramento was not the only option for completion.

Commissioner Huguenin agreed with the initial six month window but thought that the window should be gradually lessened.

Chairman Randolph said that the Technical Assistance Division should research the types of trainings and other programs available.

Commissioner Huguenin said that there are several ways to deliver this content. It could even be done on the web or through audio conferences and all the options for this should be considered.

Chairman Randolph said that one thing that the Commission has been working on is the free online ethics training for local officials to comply with AB 1234. One option would be to have the offenders whose violations are covered under that training, such as the gift violations, take the Commission's version of the AB 1234 training, which will cover things like the gift rules and other ethics issues. That would work for those violations.

Mr. Appelbaum said that there would need to be some kind of proof that the violator completed the training.

Chairman Randolph said that the plan is to have some kind of certificate issued at the end of the training to confirm completion.

Commissioner Remy stated that technical assistance will be extremely important in what this program will look like. It ought to be a program that is more involved in offenders simply showing up and sitting through it. The key purpose is educational value. There are an awful lot of people who do not live in Sacramento so this program really needs to be made accessible to

people in rural areas. If it is made available through electronics, then Commissioner Huguenin is correct in saying that there needs to be some accountability for people actually completing the training. The length of the program is also an important consideration, both in the effectiveness of it and in the willingness of the violators to choose to participate.

Chairman Randolph asked for any other comments.

There were none.

The Commission directed staff to return with a report analyzing the issues further.

### **Item #13. Approval of the Campaign Disclosure Manual for Ballot Measure Committees.**

Carla Wardlow, Chief of Technical Assistance, noted that a comment letter was received regarding the chapter on restrictions, chapter 10, a section on reimbursing campaign volunteers and workers had been copied over that includes a 45-day reimbursement period, which does not apply to ballot measure committees, only to candidate controlled committees. Staff proposes taking out “and repayment is made within 45 days” in the first paragraph under reimbursement.

Chairman Randolph asked for any public comment.

There was none.

Commissioner Remy moved approval of the manual with the change noted.

Commissioner Downey seconded the motion, which passed with a 4-0 vote.

Chairman Randolph commended Ms. Wardlow and Technical Assistance Division for the job done on the manual, as well as John Appelbaum for the memo and presentation on the Diversion Program.

### **Item #14. Legislative Report**

Whitney Barazoto, Legislative Coordinator, said there was nothing new to add to the report and asked if there were any questions from the Commission.

Commissioner Remy asked for a status update on AB 1391 and if there had been any response to the Commission’s overture on what it would like to do.

Ms. Barazoto replied that there has not been a response yet, however, the author’s office indicated it was open to the Commission’s suggested amendments.

Commissioner Remy asked if AB 2112 was now on the Assembly floor.

Ms. Barazoto said that AB 2112 has passed out of the Assembly and is now heading to the Senate.

Commissioner Remy asked if there was a fair amount of support for that bill.

Ms. Barazoto replied that there was a lot of support for that bill as well as AB 1693, which changes the major donor threshold. Both bills are moving along quite well.

Commissioner Remy asked if there was any opposition to the 120-day aspect.

Ms. Barazoto said that no one has come forward with opposition, in fact, there has been more opposition with AB 2801. Staff is looking to garner support from the Republicans, as it will be a challenge getting that bill off the Assembly floor.

#### **Item #15. Executive Director's Report**

Nothing new to add.

#### **Item #16. Litigation Report.**

Luisa Menchaca reported that there was nothing to add to the written report.

Chairman Randolph adjourned to closed session at 11:22.

The meeting adjourned at 12:15 a.m.

Dated: May 11, 2006

Respectfully submitted,

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Kelly Nelson  
Commission Assistant

Approved by:

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Liane Randolph  
Chairman